

CHAMBER ACTION

1 The State Infrastructure Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to entertainment industry economic
7 development; amending s. 212.08, F.S.; providing for an
8 entertainment industry credit of sales and use taxes paid
9 on qualified expenditures; providing criteria,
10 requirements, procedures, and limitations on the credit;
11 providing for uses of the credit; providing duties and
12 responsibilities of the Office of Film and Entertainment,
13 the Office of Tourism, Trade, and Economic Development,
14 and the Department of Revenue; authorizing the Office of
15 Tourism, Trade, and Economic Development to adopt rules;
16 providing for liability for fraudulent credit
17 applications; amending s. 213.053, F.S.; authorizing the
18 Department of Revenue to provide certain tax credit and
19 tax refund information to the Office of Film and
20 Entertainment and the Office of Tourism, Trade, and
21 Economic Development; amending s. 220.02, F.S.; revising
22 the order of priority list of applicable credits against
23 certain taxes; creating s. 220.192, F.S.; providing for an

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24 entertainment industry corporate income tax credit of a
25 percentage of certain qualified expenditures; providing
26 criteria, requirements, procedures, and limitations on the
27 credit; providing for aggregate amounts of tax credits
28 available; providing for uses and allocations of the
29 credit; providing for use and carryforward of the credit;
30 providing for transfers of the credit; providing for
31 noncorporate distributions of tax credits; authorizing the
32 Office of Tourism, Trade, and Economic Development and the
33 Department of Revenue to adopt rules; providing for
34 liability for fraudulent credit applications; amending s.
35 288.1254, F.S.; revising the entertainment industry
36 financial incentive program to provide corporate income
37 tax and sales and use tax credits to qualified
38 entertainment entities rather than reimbursements from
39 appropriations; revising provisions relating to
40 definitions, creation and scope, application procedures,
41 approval process, eligibility, required documents,
42 qualified productions, and annual reports; providing
43 criteria and limitations for awards of tax credits;
44 providing marketing requirements; requiring the Office of
45 Tourism, Trade, and Economic Development and Department of
46 Revenue to adopt rules; providing liability for
47 reimbursement of certain costs and fees associated with
48 fraudulent applications; providing for future repeal;
49 providing an appropriation; providing an effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

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52

53 Section 1. Paragraph (r) is added to subsection (5) of
54 section 212.08, Florida Statutes, to read:

55 212.08 Sales, rental, use, consumption, distribution, and
56 storage tax; specified exemptions.--The sale at retail, the
57 rental, the use, the consumption, the distribution, and the
58 storage to be used or consumed in this state of the following
59 are hereby specifically exempt from the tax imposed by this
60 chapter.

61 (5) EXEMPTIONS; ACCOUNT OF USE.--

62 (r) Entertainment industry tax credit; authorization;
63 eligibility for credits.--

64 1. Beginning July 1, 2006, a qualified production company
65 is eligible for tax credits of taxes paid on qualified
66 expenditures as defined in s. 288.1254 as provided in this
67 paragraph:

68 a. The credit shall be granted as a refund of sales and
69 use tax paid by a qualifying production company on qualified
70 expenditures in the fiscal year preceding the date of
71 application.

72 b. To be eligible to receive the credit, an applicant must
73 be a qualified production company as defined in s.
74 288.1258(1)(b).

75 c. A qualified production company may not be awarded more
76 than \$2 million in tax credits under this paragraph and s.
77 220.192 per year unless the production is a high-impact
78 television series, in which case the qualified production shall
79 be eligible for a maximum tax credit award of \$3 million per

80 year. The tax credit available under this paragraph shall
81 consist only of the tax paid by a qualified production company
82 under this chapter and only up to the face amount of the credit.
83 If the qualified production company cannot use the entire tax
84 credit in the state fiscal year in which the credit is approved,
85 any excess may be carried over to a succeeding state fiscal
86 year. A tax credit granted under this paragraph and applied
87 against sales and use taxes imposed under this chapter may be
88 carried forward only for a maximum of 5 state fiscal years
89 following the state fiscal year in which the credit was
90 approved. Five years after the date a credit is granted under
91 this paragraph, the credit expires and may not be used.

92 d. The aggregate amount of tax credits allowed under this
93 paragraph and s. 220.192 in any state fiscal year is \$25
94 million. If the total amount of allocated tax credits applied
95 for in any state fiscal year exceeds the aggregate amount of tax
96 credits authorized annually under this paragraph, such excess
97 shall be treated as having been applied for on the first day of
98 the next state fiscal year in which tax credits remain available
99 for allocation. However, no more than an aggregate amount of \$30
100 million in tax credits shall be allocated between July 1, 2006,
101 and June 30, 2007. The cumulative amount of credits that may be
102 allocated between July 1, 2006, and June 30, 2009, shall not
103 exceed \$75 million. At such time as \$75 million of tax credits
104 have been allocated, no additional tax credits may be allocated.

105 e. The tax credits awarded under this paragraph may only
106 be used by the qualified production company to whom the credits

107 | were awarded. Credits awarded under this paragraph may not be
108 | sold, assigned, or otherwise transferred, in whole or in part.

109 | 2.a. To be eligible to receive the credit provided by this
110 | paragraph, a qualified production company shall apply to the
111 | Office of Film and Entertainment prior to September 1 of each
112 | year for a refund of sales and use taxes paid on qualified
113 | expenditures in the preceding fiscal year.

114 | b. The Office of Film and Entertainment shall develop,
115 | with the cooperation of the department, a standardized
116 | application form for use in applying for the credit.

117 | c. Upon receipt of an application, the Office of Film and
118 | Entertainment shall review the application and information and
119 | determine whether or not the application is complete within 15
120 | business days. An application shall not be considered complete
121 | unless the application includes copies of invoices upon which
122 | Florida sales and use tax is separately stated, other proof that
123 | Florida sales and use tax was paid on the purchase of the
124 | qualified expenditures, and other documentation as required by
125 | the department. The Office of Film and Entertainment shall
126 | notify the applicant within 20 business days after receipt of
127 | the application of any deficiencies in the application. Upon
128 | receipt of a completed application, the Office of Film and
129 | Entertainment shall evaluate the application for credit under
130 | this paragraph and the Office of Tourism, Trade, and Economic
131 | Development shall issue an approval or a denial to the applicant
132 | within an additional 15 business days. The Office of Film and
133 | Entertainment shall provide the department with a copy of each
134 | completed application that has been approved. Within 30 days

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135 after receiving a copy of an approval, the department shall
136 issue a refund directly to the qualified production company in
137 the amount shown on the approval issued by the Office of
138 Tourism, Trade, and Economic Development, notwithstanding the
139 provisions of s. 215.26. The provisions of s. 212.095 do not
140 apply to this paragraph.

141 d. The Office of Tourism, Trade, and Economic Development
142 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
143 implement this paragraph, including, but not limited to, rules
144 specifying requirements for the application and approval
145 process, records required for substantiation of credit awards,
146 and determination of and qualification for credit awards.

147 3.a. Any applicant who submits an application under this
148 paragraph that includes fraudulent information is liable for
149 reimbursement of the reasonable costs and fees associated with
150 the review, processing, investigation, and prosecution.

151 b. An eligible entity or company that obtains a credit
152 payment under this paragraph through a claim that is fraudulent
153 is liable for reimbursement of the credit amount paid plus a
154 penalty in an amount double the credit payment and reimbursement
155 of reasonable costs, which penalty is in addition to any
156 criminal penalty to which the entity or company is liable for
157 the same acts, plus interest. The entity or company is also
158 liable for costs and fees incurred by the state in investigating
159 and prosecuting the fraudulent claim.

160 Section 2. Paragraph (k) of subsection (7) of section
161 213.053, Florida Statutes, is amended, and paragraph (y) is
162 added to that subsection, to read:

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163 213.053 Confidentiality and information sharing.--

164 (7) Notwithstanding any other provision of this section,
165 the department may provide:

166 (k)1. Payment information relative to chapters 199, 201,
167 212, 220, 221, and 624 to the Office of Tourism, Trade, and
168 Economic Development, or its employees or agents that are
169 identified in writing by the office to the department, in the
170 administration of the tax refund program for qualified defense
171 contractors authorized by s. 288.1045 and the tax refund program
172 for qualified target industry businesses authorized by s.
173 288.106.

174 2. Information relative to tax credits taken by a business
175 under s. 220.191 and exemptions or tax refunds received by a
176 business under s. 212.08(5)(j) and (r) to the Office of Tourism,
177 Trade, and Economic Development, or its employees or agents that
178 are identified in writing by the office to the department, in
179 the administration and evaluation of the capital investment tax
180 credit program authorized in s. 220.191 and the semiconductor,
181 defense, and space tax exemption program authorized in s.
182 212.08(5)(j).

183 (y) Information relative to tax credits taken under s.
184 220.192 and tax refunds received by a business under s.
185 212.08(5)(r) to the Office of Film and Entertainment and the
186 Office of Tourism, Trade, and Economic Development.

187
188 Disclosure of information under this subsection shall be
189 pursuant to a written agreement between the executive director
190 and the agency. Such agencies, governmental or nongovernmental,

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191 shall be bound by the same requirements of confidentiality as
 192 the Department of Revenue. Breach of confidentiality is a
 193 misdemeanor of the first degree, punishable as provided by s.
 194 775.082 or s. 775.083.

195 Section 3. Subsection (8) of section 220.02, Florida
 196 Statutes, is amended to read:

197 220.02 Legislative intent.--

198 (8) It is the intent of the Legislature that credits
 199 against either the corporate income tax or the franchise tax be
 200 applied in the following order: those enumerated in s. 631.828,
 201 those enumerated in s. 220.191, those enumerated in s. 220.181,
 202 those enumerated in s. 220.183, those enumerated in s. 220.182,
 203 those enumerated in s. 220.1895, those enumerated in s. 221.02,
 204 those enumerated in s. 220.184, those enumerated in s. 220.186,
 205 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 206 those enumerated in s. 220.185, ~~and~~ those enumerated in s.
 207 220.187, and those enumerated under s. 220.192.

208 Section 4. Section 220.192, Florida Statutes, is created
 209 to read:

210 220.192 Entertainment industry tax credit; authorization;
 211 eligibility for credits.--

212 (1) TAX CREDITS; ELIGIBILITY; AWARD;
 213 ALLOCATION.--Beginning July 1, 2006, a qualified production
 214 company is eligible for tax credits in the amount of 15 percent
 215 of qualified expenditures, as defined in s. 288.1254.

216 (a) The credit shall be granted against the tax imposed
 217 and owing under this chapter by a qualified production company
 218 for the taxable year in which the application was granted.

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219 (b) To be eligible to receive the credit, an applicant
220 must be a qualified production company as defined in s.
221 288.1258(1)(b).

222 (c) A qualified production company may not be awarded more
223 than a total of \$2 million in tax credits under this section and
224 s. 212.08(5)(r) per year unless the production is a high-impact
225 television series, in which case the production shall be
226 eligible for a maximum total tax credit award of \$3 million per
227 year.

228 (2) AGGREGATE TAX CREDIT AVAILABLE.--The aggregate amount
229 of tax credits allowed under this section and s. 212.08(5)(r) in
230 any state fiscal year is \$25 million. If the total amount of
231 allocated tax credits applied for in any state fiscal year
232 exceeds the aggregate amount of tax credits authorized annually
233 under this section, such excess shall be treated as having been
234 applied for on the first day of the next state fiscal year in
235 which tax credits remain available for allocation. However, no
236 more than an aggregate amount of \$30 million in tax credits
237 shall be allocated between July 1, 2006, and June 30, 2007. The
238 cumulative amount of credits that may be allocated between July
239 1, 2006, and June 30, 2009, shall not exceed \$75 million. At
240 such time as \$75 million of tax credits have been allocated, no
241 additional tax credits may be allocated.

242 (3) USE OF TAX CREDIT; CARRY FORWARD.--The tax credit
243 available for use under this section for a taxable year is
244 limited to the amount of the tax due under this chapter by a
245 qualified production company. If the qualified production
246 company cannot use the entire tax credit in the taxable year in

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247 which the credit is approved, any excess may be carried over to
248 a succeeding taxable year. A tax credit granted under this
249 section and applied against taxes imposed under this chapter may
250 be carried forward only for a maximum of 5 taxable years
251 following the taxable year in which the credit was approved.
252 Five years after the date a credit is granted under this
253 section, the credit expires and may not be used.

254 (4) TRANSFER OF TAX CREDITS.--Upon application to and
255 approval by the Department of Revenue, a qualified production
256 company may sell, in whole or in part, a tax credit granted
257 under this section. The sale of any amount of the tax credit
258 shall not be exchanged for consideration received by the
259 qualified production company of less than 85 percent of the
260 transferred amount of tax credit. The qualified production
261 company must transfer at least 10 percent of the remaining
262 credits to each purchaser and may not conduct more than three
263 transfers. The purchaser of the tax credit granted under this
264 section and s. 288.1254 shall use the tax credit in the state
265 fiscal year the tax credit is acquired from the qualified
266 production company and otherwise may carry the tax credit over
267 subject to the same limitations on tax credit usage as the
268 qualified production company awarded the tax credit. The
269 purchaser of the tax credit may not sell or otherwise transfer
270 the tax credit. The Department of Revenue may adopt rules
271 pursuant to ss. 120.536(1) and 120.54 to administer this
272 subsection as provided in subsection (7).

273 (5) NONCORPORATE DISTRIBUTIONS OF TAX CREDITS.--A
274 qualified production company that is not a corporation as

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275 defined in s. 220.03 shall elect to make an application to the
276 Department of Revenue to distribute tax credits awarded under
277 this section to its partners or members in proportion to the
278 respective distributive share of such partners' or members'
279 income or loss in the taxable year in which such tax credits
280 were approved. A tax credit granted under this section and
281 applied against taxes imposed under this chapter may be carried
282 forward only for a maximum of 5 taxable years following the
283 state fiscal year in which the credit was approved.

284 (6) USE OF TAX CREDITS.--A qualified production company
285 may use the tax credit against the tax liability imposed under
286 this chapter, in whole or in part, and for a refund of sales and
287 use tax paid on qualified expenditures as provided in s.
288 212.08(5)(r), the combination of which may not exceed the
289 limitations provided in paragraph (1)(c).

290 (7) RULES.--

291 (a) The Office of Tourism, Trade, and Economic Development
292 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
293 implement this section, including, but not limited to, rules
294 specifying requirements for the application and approval
295 process, records required for substantiation of credit awards,
296 and determination of and qualification for credit awards.

297 (b) The Department of Revenue may adopt rules pursuant to
298 ss. 120.536(1) and 120.54 to administer the provisions of this
299 section, including rules governing the manner and form of
300 documentation required to claim tax credits granted or
301 transferred under this section, and may establish guidelines as

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302 | to the requirements for an affirmative showing of qualification
303 | for tax credits granted or transferred under this section.

304 | (8) FRAUDULENT CLAIMS.--

305 | (a) Any applicant who submits an application under this
306 | section that includes fraudulent information is liable for
307 | reimbursement of the reasonable costs and fees associated with
308 | the review, processing, investigation, and prosecution.

309 | (b) An eligible entity or company that obtains a credit
310 | payment under this section through a claim that is fraudulent is
311 | liable for reimbursement of the credit amount paid plus a
312 | penalty in an amount double the credit payment and reimbursement
313 | of reasonable costs, which penalty is in addition to any
314 | criminal penalty to which the entity or company is liable for
315 | the same acts, plus interest. The entity or company is also
316 | liable for costs and fees incurred by the state in investigating
317 | and prosecuting the fraudulent claim.

318 | Section 5. Section 288.1254, Florida Statutes, is amended
319 | to read:

320 | 288.1254 Entertainment industry financial incentive
321 | program; creation; purpose; definitions; application procedure;
322 | approval process; ~~reimbursement~~ eligibility; submission of
323 | required documentation; recommendations for credit award
324 | ~~payment~~; policies and procedures; fraudulent claims.--

325 | (1) CREATION AND PURPOSE OF PROGRAM.--~~Subject to specific~~
326 | ~~appropriation,~~ There is created within the Office of Film and
327 | Entertainment an entertainment industry financial incentive
328 | program. The purpose of this program is to encourage the use of
329 | this state as a site for filming and developing and sustaining

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330 | the workforce and infrastructure ~~providing production services~~
 331 | for filmed entertainment by granting tax credits for qualified
 332 | production companies applicable to the corporate income tax
 333 | imposed in s. 220.11 and a refund of sales and use taxes as
 334 | provided in s. 212.08(5)(r).

335 | (2) DEFINITIONS.--As used in this section, the term:

336 | (a) "Filmed entertainment" means a theatrical or direct-
 337 | to-video motion picture, a made-for-television motion picture
 338 | teleproduction, a commercial, a music video, an industrial or
 339 | educational film, a promotional video or film, a documentary
 340 | film, a television pilot, a television special, a presentation
 341 | for a television pilot, a television series, including, but not
 342 | limited to, a drama, a reality, a comedy, a soap opera, a
 343 | telenovela, a game show, and a miniseries production, or a
 344 | digital-media-effects production by the entertainment industry
 345 | to be sold or displayed in an electronic medium, excluding news
 346 | shows and sporting events. As used in this paragraph, the term
 347 | "motion picture" means a motion picture made on or by film,
 348 | tape, or otherwise and produced by means of a motion picture
 349 | camera, electronic camera or device, tape device, any
 350 | combination of the foregoing, or any other means, method, or
 351 | device now used or which may hereafter be adopted. As used in
 352 | this paragraph, the term "digital-media-effects" means visual
 353 | elements created through the modification of already existing or
 354 | newly created visual elements for film, video, or animated media
 355 | through the use of digital 2D/3D animation or painting, motion
 356 | capture, or compositing technologies. ~~For purposes of this~~

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357 ~~section, the term "filmed entertainment" does not include the~~
358 ~~electronic gaming industry or sporting events.~~

359 (b) "High-impact television series" means a production
360 created to run multiple production seasons with an estimated
361 order of at least seven episodes per season and qualified
362 expenditures of at least \$625,000 per episode.

363 (c) ~~(b)~~ "Production costs" means the costs of ~~real,~~
364 ~~tangible,~~ and intangible property used and services performed
365 primarily or customarily in the production, including
366 preproduction and postproduction, of qualified filmed
367 entertainment. Production costs generally include, but are not
368 limited to:

369 1. Wages, salaries, or other compensation, including
370 amounts paid through payroll service companies, for technical
371 and production crews, directors, producers, and performers ~~who~~
372 ~~are residents of this state.~~

373 2. Expenditures for sound stages, backlots, production
374 editing, digital effects, sound recordings, sets, and set
375 construction.

376 3. Expenditures for rental equipment, including, but not
377 limited to, cameras and grip or electrical equipment.

378 4. Expenditures for meals, travel, and accommodations, ~~and~~
379 ~~goods used in producing filmed entertainment that is located and~~
380 ~~doing business in this state.~~

381 5. Expenditures for goods and services used in producing
382 filmed entertainment.

383 (d) ~~(e)~~ "Qualified expenditures" means production costs
384 incurred in this state within the current state fiscal year for

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385 | goods purchased or leased from or services provided by
386 | ~~purchased, leased, or employed from a resident of this state or~~
387 | a vendor or supplier who is located and doing business in this
388 | state or payments to residents of this state in the form of
389 | salary, wages, or other compensation, but excluding wages,
390 | salaries, or other compensation paid to the two highest-paid
391 | residents of this state participating in the qualified
392 | production employees.

393 | (e)-(d) "Qualified production" means filmed entertainment
394 | that meets or exceeds minimum qualified ~~makes~~ expenditures
395 | required in this state for the total or partial production of
396 | filmed entertainment. Productions that are deemed by the Office
397 | of Film and Entertainment to contain obscene content, as defined
398 | by the United States Supreme Court, are not qualified
399 | productions. ~~Also, a production is not a qualified production if~~
400 | ~~it is determined that the first day of principal photography in~~
401 | ~~this state occurred on or before the date of submitting its~~
402 | ~~application to the Office of Film and Entertainment or prior to~~
403 | ~~certification by the Office of Tourism, Trade, and Economic~~
404 | ~~Development.~~

405 | (f)-(e) "Qualified production company relocation project"
406 | means a corporation, limited liability company, partnership,
407 | ~~corporate headquarters,~~ or other legal private entity engaged in
408 | the production of filmed entertainment that is domiciled in
409 | ~~another state or country and relocates its operations to this~~
410 | ~~state, is organized under the laws of this or any other state or~~
411 | ~~country, and includes as one of its primary purposes digital-~~

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412 ~~media effects or motion picture and television production, or~~
413 ~~postproduction.~~

414 (3) APPLICATION PROCEDURE; APPROVAL PROCESS.--

415 (a) Any company engaged in this state in producing filmed
416 entertainment may submit an application to the Office of Film
417 and Entertainment for the purpose of determining qualification
418 for an award of tax credits ~~receipt of reimbursement provided in~~
419 ~~this section.~~ The office must be provided information required
420 to determine if the production is a qualified production and to
421 determine the qualified expenditures, production costs, and
422 other information necessary for the office to determine ~~both~~
423 eligibility for the tax credit ~~and level of reimbursement.~~

424 (b) ~~A digital media effects company in the state which~~
425 ~~furnishes digital material to filmed entertainment may submit an~~
426 ~~application to the Office of Film and Entertainment for the~~
427 ~~purpose of determining qualification for receipt of~~
428 ~~reimbursement authorized by this section.~~ The office must be
429 provided information required to determine if the company is
430 qualified and to determine the amount of reimbursement.

431 (c) ~~Any corporation, limited liability company,~~
432 ~~partnership, corporate headquarters, or other private entity~~
433 ~~domiciled in another state which includes as one of its primary~~
434 ~~purposes digital media effects or motion picture and television~~
435 ~~production and which is considering relocation to this state may~~
436 ~~submit an application to the Office of Film and Entertainment~~
437 ~~for the purpose of determining qualification for reimbursement~~
438 ~~under this section.~~

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439 ~~(d)1. The Office of Film and Entertainment shall establish~~
440 ~~a process by which an application is accepted and reviewed and~~
441 ~~reimbursement eligibility and reimbursement amount are~~
442 ~~determined. The Office of Film and Entertainment may request~~
443 ~~assistance from a duly appointed local film commission in~~
444 ~~determining qualifications for reimbursement and compliance.~~

445 1.2. The Office of Film and Entertainment shall develop a
446 standardized application form for use in qualifying an applicant
447 as approving a qualified production, a qualified relocation
448 project, or a company qualifying under paragraph (a), paragraph
449 (b), or paragraph (c). The application form for qualifying an
450 applicant as a qualified production must include, but need not
451 be limited to, production-related information on employment,
452 proposed total production budgets, planned expenditures in this
453 state ~~which are intended for use exclusively as an integral part~~
454 ~~of preproduction, production, or postproduction activities~~
455 ~~engaged primarily in this state,~~ and a signed affirmation from
456 the applicant ~~Office of Film and Entertainment~~ that the
457 information on the application form has been verified and is
458 correct. The application form shall be distributed to applicants
459 by the Office of Film and Entertainment or local film
460 commissions.

461 2.3. Within 10 business days after receipt of an
462 application, the Office of Film and Entertainment shall review
463 the application to determine if the application contains all the
464 information required by this subsection and meets the criteria
465 set out in this section. The office shall qualify all
466 applications that contain the information and meet the criteria

467 set out in this section as eligible to receive a tax credit or
468 shall notify the applicant that the requirements for
469 qualification have not been met. If the application is
470 qualified, the office shall recommend to the Office of Tourism,
471 Trade, and Economic Development approval of the maximum amount
472 of the tax credit to be awarded. ~~The Office of Film and~~
473 Entertainment must complete its review of each application
474 within 5 days after receipt of the completed application,
475 including all required information, and it must notify the
476 applicant of its determination within 10 business days after
477 receipt of the completed application and required information.

478 3.4. Within 10 business days after receiving notice from
479 the Office of Film and Entertainment of qualification of an
480 applicant as a qualified production and a recommended approval
481 of the maximum amount of tax credit to be awarded, the Office of
482 Tourism, Trade, and Economic Development shall certify the
483 maximum tax credit award, if any. The certification shall be
484 transmitted to the applicant and to the executive director of
485 the Department of Revenue. The applicant shall be responsible
486 for forwarding a certified application to the Department of
487 Revenue. ~~Upon determination that all criteria are met for~~
488 qualification for reimbursement, the Office of Film and
489 Entertainment shall notify the applicant of such approval. The
490 office shall also notify the Office of Tourism, Trade, and
491 Economic Development of the applicant approval and amount of
492 reimbursement required. ~~The Office of Tourism, Trade, and~~
493 Economic Development shall make final determination for actual
494 reimbursement.

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495 ~~4.5-~~ The Office of Film and Entertainment shall deny an
496 application if the office ~~it~~ determines that:

497 a. The application is not complete or does not meet the
498 requirements of this section; or

499 b. The tax credit amount ~~reimbursement~~ sought does not
500 meet the requirements of this section ~~for such reimbursement~~.

501 (4) ~~CREDIT REIMBURSEMENT~~ ELIGIBILITY; SUBMISSION OF
502 REQUIRED DOCUMENTATION; APPLICATION RECOMMENDATIONS FOR TRANSFER
503 PAYMENT. --

504 (a) Tax credit award.--A production of filmed
505 entertainment that is qualified by the Office of Film and
506 Entertainment and is certified by the Office of Tourism, Trade,
507 and Economic Development is eligible for corporate income tax
508 credits granted pursuant to s. 220.192 in an amount equal a
509 reimbursement of up to 15 percent of its qualified ~~qualifying~~
510 expenditures and credits granted against sales and use tax paid
511 on qualified expenditures pursuant to s. 212.08(5)(r).

512 (b) Production spanning 2 state fiscal years.--A qualified
513 production that starts in one state fiscal year and finishes in
514 the next state fiscal year shall have all qualified expenditures
515 from both state fiscal years certified for the latter state
516 fiscal year. This requirement does not apply to the commercials
517 and music video queue described in subparagraph (d)3.

518 (c) Aggregate tax credit available.--The aggregate amount
519 of tax credits allowed under this section in any state fiscal
520 year is \$25 million. If the total amount of allocated tax
521 credits applied for in any state fiscal year exceeds the
522 aggregate amount of tax credits authorized annually under this

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523 section, such excess shall be treated as having been applied for
524 on the first day of the next state fiscal year in which tax
525 credits remain available for allocation. However, no more than
526 an aggregate amount of \$30 million in tax credits granted
527 pursuant to this section and ss. 212.08(5)(r) and 220.192 shall
528 be allocated between July 1, 2006, and June 30, 2007. The
529 cumulative amount of credits that may be allocated between July
530 1, 2006, and June 30, 2009, may not exceed \$75 million. At such
531 time as \$75 million of tax credits granted pursuant to this
532 section and ss. 212.08(5)(r) and 220.192 have been allocated, no
533 additional tax credits may be allocated ~~in this state on a~~
534 ~~filmed entertainment program that demonstrates a minimum of~~
535 ~~\$850,000 in total qualified expenditures for the entire run of~~
536 ~~the project, versus the budget on a single episode, within the~~
537 ~~fiscal year from July 1 to June 30. However, the maximum~~
538 ~~reimbursement that may be made with respect to any filmed~~
539 ~~entertainment program is \$2 million. All reimbursements under~~
540 ~~this section are subject to appropriation.~~

541 (d) Filmed entertainment queues.--Tax credits awarded
542 ~~Payments~~ under this section in a state fiscal year shall be made
543 to qualified productions according to a production's principal
544 photography start date, for those qualified productions having
545 entered into the first queue as cited in subparagraph 1. or the
546 second queue cited in subparagraph 2. within the first 2 weeks
547 after the queue's opening. All other qualified productions
548 entering into either queue after the initial 2-week openings
549 shall be on a first-come, first-served basis ~~until the~~
550 ~~appropriation for that fiscal year is exhausted. On February 1~~

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551 ~~of each year, the remaining funds within both queues shall be~~
552 ~~combined into a single queue and distributed based on a~~
553 ~~project's principal photography start date. The eligibility of~~
554 ~~qualified productions may not carry over from year to year, but~~
555 ~~such productions may reapply for eligibility under the~~
556 ~~guidelines established for doing so. The Office of Film and~~
557 ~~Entertainment shall develop a procedure to ensure that qualified~~
558 ~~productions continue on a reasonable schedule until completion.~~
559 ~~If a qualified production is not continued according to a~~
560 ~~reasonable schedule, the office shall withdraw its eligibility~~
561 ~~and reallocate the funds to the next qualified productions~~
562 ~~already in the queue that have yet to receive their full maximum~~
563 ~~or 15 percent financial reimbursement, if they have not started~~
564 ~~principal photography by the time the funds become available.~~

565 1. Film, television, and episodic queue.--Theatrical or
566 direct-to-video motion pictures, made-for-television movies,
567 ~~commercials, music videos,~~ industrial and educational films,
568 promotional videos or films, documentary films, television
569 specials, television series, including, but not limited to,
570 miniseries and telenovelas, and digital-media-effects
571 productions by the entertainment industry to be sold or
572 displayed in an electronic medium that demonstrate a minimum of
573 \$625,000 in total qualified expenditures for the entire run of
574 the project, which, for a television series, means a season even
575 if the season is not completed in the same state fiscal year in
576 which principal photography began, shall have their own separate
577 queue established, and such queue shall have dedicated to it 60
578 percent of all available tax credits in any state fiscal year

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579 for which this section applies. The maximum tax credit award
580 that may be made from this queue for any single production is \$2
581 million per year unless the production is a high-impact
582 television series, in which case the production shall be
583 eligible for a maximum tax credit award of \$3 million per year,
584 provided such production meets the other criteria of this
585 section. On March 1 of each year, the remaining tax credits
586 within this queue shall be merged into a general queue and may
587 be used for other purposes of this section as determined by the
588 Office of Film and Entertainment. A television series,
589 including, but not limited to, a qualified high-impact
590 television series, is not eligible for a tax credit award under
591 this section after its fifth production season in this state. A
592 qualified high-impact television series shall be allowed first
593 position in this queue for its first five production seasons in
594 this state if the application is received by the Office of Film
595 and Entertainment within the first 2 weeks after the queue's
596 opening. A qualified high-impact television series must file an
597 application for each state fiscal year in which it is eligible
598 to receive the credit, unless otherwise provided in this section
599 ~~of the state incentive money.~~

600 2. Television pilot queue.--~~Television pilots and,~~
601 ~~presentations for television pilots~~ for television series
602 intended to be shot in this state and, ~~or television series,~~
603 ~~including, but not limited to, drama, reality, comedy, soap~~
604 ~~opera, telenovela, game show, or miniseries productions, by the~~
605 ~~entertainment industry to be sold or displayed in an electronic~~
606 medium that demonstrate a minimum of \$625,000 in total qualified

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607 expenditures for the pilot episode or presentation shall have
608 their own separate queue established, and such queue shall have
609 dedicated to it ~~20~~ 40 percent of all available tax credits in
610 any given state fiscal year for which this section applies. The
611 maximum tax credit award that may be made from this queue for
612 any single pilot episode or presentation is \$2 million. On March
613 1 of each year, the remaining tax credits within this queue
614 shall be merged into a general queue and may be used for other
615 purposes of this section as determined by the Office of Film and
616 Entertainment.

617 3. ~~Commercials and music video queue.--Commercials and~~
618 music videos by the entertainment industry to be sold or
619 displayed in an electronic medium that demonstrate a minimum of
620 \$500,000 in combined total qualified expenditures from a
621 production company during the state fiscal year with a minimum
622 of \$75,000 in qualified expenditures for each production shall
623 have their own separate queue established. Such queue shall have
624 dedicated to it 20 percent of available tax credits in any given
625 state fiscal year for which this section applies. The maximum
626 tax credit award that may be made from this queue for any single
627 production company is \$500,000 for a state fiscal year. On April
628 1 of each year, the remaining tax credits within this queue
629 shall be merged into a general queue and may be used for other
630 purposes of this section as determined by the Office of Film and
631 Entertainment.

632 (e) ~~Loss of eligibility; reallocation of tax credits.--If~~
633 a qualified production is not continued according to a
634 reasonable schedule or the Office of Film and Entertainment is

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635 notified that a qualified production will no longer be produced,
636 the office shall withdraw the production's eligibility for tax
637 credits and reallocate the tax credits to the next qualified
638 productions already in the queue that have yet to receive a full
639 tax credit if such next qualified productions have not started
640 principal photography by the time the tax credits become
641 available.

642 (f) Verification of tax credit award.--The Office of Film
643 and Entertainment shall develop a process by which a qualified
644 production that has been certified by the Office of Tourism,
645 Trade, and Economic Development shall submit to the Office of
646 Film and Entertainment, in a timely manner after production ends
647 and after making all of its qualified expenditures, verifying
648 data to substantiate each qualified expenditure. The Office of
649 Film and Entertainment shall report to the Office of Tourism,
650 Trade, and Economic Development the final verified amount of
651 actual qualified expenditures made by the qualified production.
652 The Office of Tourism, Trade, and Economic Development shall
653 then notify the executive director of the Department of Revenue
654 that the qualified production has met all requirements of the
655 incentive program and shall recommend the final amount of the
656 tax credit ~~of the state incentive money.~~

657 (g) Use of tax credit; carry forward.--

658 1. The tax credit available under s. 212.08(5)(r) shall
659 consist only of the tax paid by a qualified production company
660 under chapter 212 and only up to the face amount of the credit.
661 If the qualified production company cannot use the entire tax
662 credit in the state fiscal year in which the credit is approved,

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663 any excess may be carried over to a succeeding state fiscal
664 year. A tax credit granted under s. 212.08(5)(r) and applied
665 against sales and use taxes imposed under chapter 212 may be
666 carried forward only for a maximum of 5 state fiscal years
667 following the state fiscal year in which the credit was
668 approved. Five years after the date a credit is granted under s.
669 212.08(5)(r), the credit expires and may not be used.

670 2. The tax credit available for use under s. 220.192 for a
671 taxable year is limited to the amount of the tax due under
672 chapter 220 by a qualified production company. If the qualified
673 production company cannot use the entire tax credit in the
674 taxable year in which the credit is approved, any excess may be
675 carried over to a succeeding taxable year. A tax credit granted
676 under s. 220.192 and applied against taxes imposed under chapter
677 220 may be carried forward only for a maximum of 5 taxable years
678 following the taxable year in which the credit was approved.
679 Five years after the date a credit is granted under s. 220.192,
680 the credit expires and may not be used.

681 (h) Transfer of tax credits.--Upon application to and
682 approval by the Department of Revenue, a qualified production
683 company may sell, in whole or in part, a tax credit granted
684 pursuant to this section and s. 220.192. The sale of any amount
685 of the tax credit shall not be exchanged for consideration
686 received by the qualified production company of less than 85
687 percent of the transferred amount of tax credit. The qualified
688 production company must transfer at least 10 percent of the
689 remaining credits to each purchaser and may not conduct more
690 than three transfers. The purchaser shall surrender the tax

691 credit in the state fiscal year acquired from the qualified
692 production company and otherwise may carry the tax credit over
693 subject to the same limitations on tax credit usage as the
694 qualified production company awarded the tax credit. The
695 purchaser may not sell or otherwise transfer the tax credit. The
696 Department of Revenue may adopt rules pursuant to ss. 120.536(1)
697 and 120.54 to administer this paragraph, as provided in
698 paragraph (6) (b).

699 (i) Noncorporate distribution of tax credits.--A qualified
700 production company that is not a corporation as defined in s.
701 220.03 shall elect to make an application to the Department of
702 Revenue as provided in paragraph (h) or distribute tax credits
703 awarded under this section to its partners or members in
704 proportion to the respective distributive share of such
705 partners' or members' income or loss in the state fiscal year in
706 which such tax credits were approved. A tax credit granted
707 pursuant to this section and s. 220.192 and applied against
708 taxes imposed under chapter 220 shall be carried forward only
709 for a maximum of 5 taxable years following the state fiscal year
710 in which the credit was approved. The Department of Revenue may
711 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer
712 this paragraph, as provided in paragraph (6) (b).

713 (j) Use of tax credits.--A qualified production company
714 may use the tax credit against the tax liability imposed under
715 s. 220.192, in whole or in part, and for a refund of sales and
716 use taxes paid on qualified expenditures as provided in s.
717 212.08(5) (r) the combination of which may not exceed the credit
718 limitations provided in this section.

719 ~~(b) A digital media effects company in the state which~~
720 ~~furnishes digital material to filmed entertainment may be~~
721 ~~eligible for a payment in an amount not to exceed 5 percent of~~
722 ~~its annual gross revenues on qualified expenditures as defined~~
723 ~~in paragraph (2) (c) before taxes or \$100,000, whichever is less.~~
724 ~~A company applying for payment must submit documentation~~
725 ~~annually as required by the Office of Film and Entertainment for~~
726 ~~determination of eligibility of claimed billing and~~
727 ~~determination of the amount of payment for which the company is~~
728 ~~eligible.~~

729 ~~(c) A qualified relocation project that is certified by~~
730 ~~the Office of Film and Entertainment is eligible for a one-time~~
731 ~~incentive payment in an amount equal to 5 percent of its annual~~
732 ~~gross revenues before taxes for the first 12 months of~~
733 ~~conducting business in its Florida domicile or \$200,000,~~
734 ~~whichever is less. A company applying for payment must submit~~
735 ~~documentation as required by the Office of Film and~~
736 ~~Entertainment for determination of eligibility of claimed~~
737 ~~billing and determination of the amount of payment for which the~~
738 ~~company is eligible.~~

739 ~~(d) A qualified production, a digital media effects~~
740 ~~company, or a qualified relocation project applying for a~~
741 ~~payment under this section must submit documentation for claimed~~
742 ~~qualified expenditures to the Office of Film and Entertainment.~~

743 ~~(e) The Office of Film and Entertainment shall notify the~~
744 ~~Office of Tourism, Trade, and Economic Development whether an~~
745 ~~applicant meets the criteria for reimbursement and shall~~
746 ~~recommend the reimbursement amount. The Office of Tourism,~~

747 ~~Trade, and Economic Development shall make the final~~
748 ~~determination for actual reimbursement.~~

749 (5) MARKETING REQUIREMENTS.--The Office of Film and
750 Entertainment shall ensure appropriate marketing materials,
751 including, but not limited to, promotions of this state as a
752 tourist or filming destination, are required when appropriate
753 to be included on any filmed entertainment as a condition of
754 receiving a tax credit under this section. The Office of Film
755 and Entertainment shall consult with appropriate entities for
756 the development and implementation of marketing materials.

757 ~~(6)(5) RULES POLICIES AND PROCEDURES.--~~

758 (a) The Office of Tourism, Trade, and Economic Development
759 shall adopt rules pursuant to ss. 120.536(1) and 120.54 policies
760 and procedures to implement this section, including, but not
761 limited to, rules specifying requirements for the application
762 and approval process, records required for submission for
763 substantiation of credit awards for reimbursement, and
764 determination of and qualification for credit awards, and
765 marketing requirements for credit recipients reimbursement.

766 (b) The Department of Revenue may adopt rules pursuant to
767 ss. 120.536(1) and 120.54 to administer the provisions of this
768 section, including rules governing the manner and form of
769 documentation required to claim tax credits granted or
770 transferred under this section, and may establish guidelines as
771 to the requisites for an affirmative showing of qualification
772 for tax credits granted or transferred under this section.

773 ~~(7)(6) FRAUDULENT CLAIMS.--~~

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774 (a) Any applicant who submits an application under this
775 section that includes fraudulent information is liable for
776 reimbursement of the reasonable costs and fees associated with
777 the review, processing, investigation, and prosecution.

778 (b) An eligible entity or company that obtains a credit
779 payment under this section through a claim that it knows is
780 fraudulent is liable for reimbursement of the credit amount paid
781 plus a penalty in an amount double the credit payment and
782 reimbursement of reasonable costs, which penalty is in addition
783 to any criminal penalty to which the entity or company is liable
784 for the same acts, plus interest. The entity or company is also
785 liable for costs and fees incurred by the state in investigating
786 and prosecuting the fraudulent claim.

787 (8)-(7) ANNUAL REPORT.--The Office of Film and
788 Entertainment shall provide an annual report for the previous
789 state fiscal year, due October 1, to the Governor, the President
790 of the Senate, and the Speaker of the House of Representatives
791 outlining the return on investment to the state on tax credits
792 awarded funds expended pursuant to this section.

793 (9) REPEAL.--This section is repealed July 1, 2009.

794 Section 6. For the fiscal year 2006-2007, one full-time
795 equivalent position is authorized and the sums of \$44,863 in
796 recurring funds and \$4,843 in nonrecurring funds are
797 appropriated from the General Revenue Fund to the Department of
798 Revenue for the purpose of funding the provisions of this act.

799 Section 7. This act shall take effect July 1, 2006.